

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

HENRY TIMBERLAKE DUNCAN,

Plaintiff,

v.

CIVIL ACTION NO. 3:18-1373

SERGEANT ADKINS, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER


This action was referred to the Honorable Cheryl A. Eifert, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and recommended that the Motion to Amend the Complaint (ECF No. 9) be granted; the Complaint (ECF No. 3) be dismissed, without prejudice, as it is duplicative of the claims raised in Case No. 3:18-cv-1355; the Clerk of Court be ordered to docket the Amended Complaint (ECF No. 9-1); the instant civil action be transferred to the United States District Court for the Northern District of West Virginia at Elkins pursuant to 27 U.S.C. § 1404(a) for further proceedings; and this case be removed from the docket of the Court. Neither party has filed objections to the Magistrate Judge's findings and recommendations.

Accordingly, the Court accepts and incorporates herein the findings and recommendation of the Magistrate Judge and **ORDERS** that the Motion to Amend the Complaint (ECF No. 9) be **GRANTED**; the Complaint (ECF No. 3) be **DISMISSED**, without prejudice, as it is duplicative

of the claims raised in Case No. 3:18-cv-1355; the Clerk of Court docket the Amended Complaint (ECF No. 9-1); the instant civil action be **TRANSFERRED** to the United States District Court for the Northern District of West Virginia at Elkins pursuant to 27 U.S.C. § 1404(a) for further proceedings; and this case be **REMOVED** from the docket of the Court, consistent with the findings and recommendations.

The Court **DIRECTS** the Clerk to forward copies of this written opinion and order to all counsel of record, and any unrepresented parties.

ENTER: April 18, 2019



ROBERT C. CHAMBERS
UNITED STATES DISTRICT JUDGE